IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1628 of 1996

SH.GURUKUL,CHITTORGARH
V/S
STATE & ANR

Mr. DR CHOUDHARY, for the appellant / petitioner

Mr. BL BHATI, DY.GA, for the respondent

Date of Order : 13.11.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

This petition has been filed by the petitioner praying for quashing the order Annexure-6, for setting aside the whole of the proceedings for acquisition ofthe land in question, to declare it null and void, and without jurisdiction, and it is also prayed that the non-petitioners be also directed to start acquisition proceedings in accordance with law and pass appropriate order for compensation, solatium and interest, and the same be paid in accordance with law.

The factual allegations of the writ petition are, that the petitioner claims to be registered society having the aims and objects of development of moral values and improvement of standard of education amongst young generations according to the Indian culture and heritage, and imparts education according to ancient principles of

Ayurvedas. It is then alleged thatthepetitioner was Khatedar of 7 bighas and 6 biswas of land, possession of which was taken by the State of Rajasthan without any written notice, as the land fell in the canal area of orai Canal, and for this purpose reference is made to the award of the Sub Divisional Officer dt. 12.12.1988 Annexure-2. It is then alleged, that out of the land of the petitioner, of which possession was taken, for 2 bighas and 6 biswas of land which was taken possession in 1963 land has been given in exchange adjacent to Gurukul, and for rest the land which was offered was said to be recorded as forest land, therefore nothing was done to deliver possession of other land. It is alleged that during all these years no intimation or notice of completion of proceedings was ever issued to the petitioner. According to the petitioner the Land Acquisition Officer made award Annexure-2 without issuing any notice to any of the land owners, assessed the compensation without indicating any scale or basis for the valuation of the land, and that the market value of the land at the relevant time was much higher. It is alleged that notice of the award was not ordered to be issued to any of the effected land holders, apprising them to withdraw the amount of the award, or to make their objections, if they feel dissatisfied. Thus, the provisions of Section 9 of the Land Acquisition Act have been violated. Then, it is alleged that the award adorned the file of the Land Acquisition Officer till notice dt.

10.4.1995 was issued to the petitioner to draw the amount, and on coming to know of the acquisition proceedings certified copy of the award was applied on 17.7.95, and was received, then objections were submitted before the Land Acquisition Officer on 22.8.95. It is contended in the objection petition, that the award was made without giving any opportunity of hearing, and therefore, the same was void abinitio, and violative of principles of natural justice, the valuation was claimed to be arrived at, at a much lower figure, then the objection about award of interest was also raised, and various other objections were also raised. A copy of this is filed as Annexure-3. Then, representation Annexure-4 and 5 have also been produced. The S.D.O. has decided those objections vide order dt. 25.3.1996 Annexure-6 which is under challenge. The writ petition was admitted way back on 23.9.96. However, no reply has been filed for all this long period of time, and was filed only on 18.10.2006, and that too without giving copy to the learned counsel for the petitioner, which is said to have been given on the last working day, after which the Court has opened today. In that view of the matter, the reply is ignored, and the learned counsel for the petitioner was heard.

Learned counsel reiterated the submissions made in the writ petition, and mainly it was contended that the award has been made after more than two years, and is

therefore, bad.

In my view, a look at the objections submitted being Annexure-3, or the subsequent representation being made Annexure-4, or even Annexure-5, shows that it is nowhere the stand that the award has not been made within a period of two years, with the result that the land acquisition proceedings lapsed, or award could not be made, rather only objection taken was, that the Central Land Acquisition Act came into force w.e.f. 3.1.1987, and therefore, the award should have been passed under and in accordance with the provisions of the Central Land Acquisition Act, 1984, and not in accordance with the Rajasthan Land Acquisition Act which stood repealed. In my view, in this view of the matter the objection about expiry of two years need not detain me, apart from the fact, that the learned counsel has not been able to even now satisfy, as to how this period of two years is to calculated, and as to how the award could not be made, as made, on 12.12.1988.

Even otherwise coming to the merits of the order Annexure-6, a look at that shows that after receipt of the notice objections were submitted which have been considered on merits by the learned Land Acquisition Officer, and it has been found, that in response to the notice under Section 5-A the petitioner prayed for being given land in exchange of the land, and prayed for being given Araji

no.1, which being pasture land, could not be allotted, and therefore, that was not allotted, and therefore only 2 bighas and 10 biswa land was allotted. Then, contention about absence of notice or information of the order dt. 12.12.1988 was considered, and it was found, that the petitioner had lodged a complaint before the District Vigilance Committee on 24.10.89, and whereupon the matter was heard, and was decided on 21.4.93, and the Executive Engineer was directed to make payment of the awarded amount expeditiously, copy whereof was given to the petitioner. In that view of the matter, in any case at that time the petitioner had learnt about the award. In Annexure-6 it has also been considered that thepetitioner had also filed an application under Section 18 of the Land Acquisition Act, for making reference, along with an affidavit, but then that application was also considered to be time barred, having been filed after more than six months, even from the date of coming to know of the award, and thus the objections were dismissed.

In my view, so far the validity of acquisition proceedings is concerned, no facts have been pleaded, and no grounds have been made out, on which the proceedings could be challenged, or be quashed, and so far as the award, is concerned, if the petitioner was aggrieved of the award his remedy did lay by moving appropriate application under Section 18 of the Land Acquisition Act. More so

because the basic gravamen of the objections, is contended to be about valuation of the land, and quantum of compensation assessed, or interest or solatium etc., which all could be taken care of only under Section 18. Admittedly no application under Section 18 had been filed within time prescribed therein, and in Annexure-6 the Land Acquisition Officer has found, that the petitioner did have the knowledge of the award, in any case in the year 1993, when his application made before the District Vigilance Committee was disposed, and a copy of that order was given to him. This is pure finding of fact, and it is not even alleged that the copy of the order of the District Vigilance Committee was not given to the petitioner. Though the petitioner has produced as Annexure-7 the complaint made before the District Vigilance Committee, but then neither any facts have been pleaded in that regard, nor the out come thereof has been pleaded.

Thus, the net conclusion is, that the order Annexure-6 does not suffer from any error requiring interference in my writ jurisdiction.

The writ petition is, therefore, dismissed.

(N P GUPTA),J.

/Sushil/